

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:11cv70**

SYNOVUS BANK,)
)
Plaintiff,)
)
v.) **ORDER**
)
PHILSMITH, LLC,)
)
Defendant.)
)

In its Answer to Plaintiff's Complaint, Defendant asserted Counterclaims and a Third Party Complaint. Plaintiff then moved to strike the Third Party Complaint [# 7] and moved to dismiss the Counterclaims [# 9]. Within twenty-one days of the filing of the Motion to Dismiss, Defendant filed an Amended Answer, which it was allowed to do as a matter of course. See Fed. R. Civ. P. 15(a). The Amended Answer, however, supercedes the original Answer, Counterclaims, and Third Party Complaint. Accordingly, the Court **DENIES as moot** the Motion to Dismiss Counterclaims [# 9] and Motion to Strike Answer to Complaint [# 7].

Signed: August 2, 2011

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

